

UNITED STATES DISTRICT COURT

for the

Northern District of New York

UNITED STATES OF AMERICA)

v.)

ADAN MARTINEZ-HERNANDEZ)

Case No. 5:25-MJ-3 (MJK)

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)

Defendant

CRIMINAL COMPLAINT

I, the complainant in this case, state that the following is true to the best of my knowledge and belief. On or about the date(s) of September 22, 2024 in the county of Cortland in the Northern District of New York the defendant violated:

Code Section

8 U.S.C. § 1326(a)

Offense Description

Adan Martinez-Hernandez, an alien, native and citizen of Mexico, being an alien who has been denied admission, excluded, deported, or removed, or have departed the United States while an order of exclusion, deportation, or removal is outstanding, entered and was thereafter found in the United States without the Attorney General of the United States, or his successor, the Secretary of Homeland Security, having expressly consented to his reapplication for admission into the United States.

This criminal complaint is based on these facts:
See Attached Affidavit.

☒ Continued on the attached sheet.

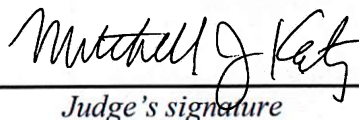

Complainant's signature

Michael G. Donnell, Deportation Officer

Printed name and title

Attested to by the affiant in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

Date: 1/10/2025


Judge's signature

City and State: Syracuse, NY

Hon. Mitchell J. Katz, U.S. Magistrate Judge

Printed name and title

AFFIDAVIT IN SUPPORT OF CRIMINAL COMPLAINT

I, Michael Donnell, having been first duly sworn, hereby depose and state as follows:

INTRODUCTION

1. I am a Deportation Officer employed by the U.S. Department of Homeland Security (“DHS”), Immigration and Customs Enforcement (“ICE”). I have been so employed since February 2022. I investigate violations of the immigration and nationality laws of the United States, which primarily are found in Titles 8 and 18 of the United States Code. I have received training in the investigation of violations of the United States Code as it pertains to immigration law and other violations of the United States Code involving criminal matters.

2. This affidavit is made in support of an application for criminal complaint charging Adan MARTINEZ-HERNANDEZ with a violation of Title 8, United States Code, Section 1326(a), Re-Entry of Previously Removed Alien.

3. The statements contained in this affidavit are based upon my investigation of this matter, information provided by other law enforcement agents, and my experience and training as a Deportation Officer. Because this affidavit is being submitted for the limited purpose of securing a criminal complaint, I have not included every fact known to me concerning this investigation. Rather, I have set forth only those facts that I believe are necessary to establish probable cause to believe that MARTINEZ-HERNANDEZ has violated Title 8, United States Code, Section 1326(a).

INVESTIGATION AND FACUTAL BASIS FOR THE COMPLAINT

4. On or about September 22, 2024, law enforcement officers employed by the City of Watkins Glen, New York, Police Department (“WGPD”) arrested Adan MARTINEZ-HERNANDEZ for the commission of a New York state offense. While MARTINEZ-HERNANDEZ was in custody, WGPD recorded MARTINEZ-HERNANDEZ’s fingerprints as

part of their standard booking procedures. MARTINEZ-HERNANDEZ was subsequently released from state custody and indicated on his release paperwork that he was residing at XXXX Van Donsel Rd., Cortland, New York, within the Northern District of New York.

5. Following MARTINEZ-HERNANDEZ's arrest, the WGPD arrest paperwork was reviewed by ICE and compared to records relating to an October 2019 United States Border Patrol ("USBP") encounter with an individual named Adan MARTINEZ-HERNANDEZ. On or about October 9, 2019, USBP located MARTINEZ-HERNANDEZ, a Mexican national without any legal basis to be present in the United States, near Hidalgo, Texas. MARTINEZ-HERNANDEZ was interviewed on October 9, 2019, and he admitted to being a citizen of Mexico who had illegally entered the United States. While in USBP custody, MARTINEZ-HERNANDEZ was fingerprinted. USBP then processed MARTINEZ-HERNANDEZ for Expedited Removal. Pursuant to that procedure, MARTINEZ-HERNANDEZ was in fact removed from the United States on October 9, 2019.

6. On December 12, 2024, the fingerprint records from MARTINEZ-HERNANDEZ's WGPD arrest and the fingerprint records from MARTINEZ-HERNANDEZ's 2019 USBP expedited removal were sent to the New York State Department of Criminal Justice Services ("DCJS"), State Identification Bureau ("SIB") for comparison. The fingerprints were compared by a SIB Identification Specialist, who determined that the prints were a match.

7. On December 13, 2024, a surveillance operation was conducted by ICE at XXXX Van Donsel Rd., Cortland, New York, within the Northern District of New York. During the course of the operation, your Affiant and another law enforcement officer observed a white Jeep Compass pull into the driveway of XXXX Van Donsel Rd. A Hispanic male exited the driver seat of the white Jeep Compass. Your Affiant and the other law enforcement officer compared the appearance

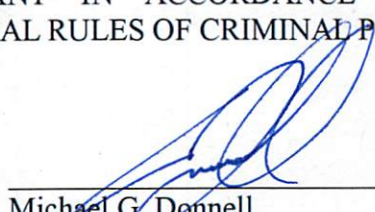
of the Hispanic male to an oversized booking photo of MARTINEZ-HERNANDEZ from his recent WYPD arrest and determined them to be the same individual. Your Affiant and the other law enforcement officer both had a clear, unobstructed view of MARTINEZ-HERNANDEZ on December 13.

8. A review of MARTINEZ-HERNANDEZ's immigration records reveals that MARTINEZ-HERNANDEZ has made no claim for legal status in the United States. MARTINEZ-HERNANDEZ has not ever been lawfully admitted to the United States or given permission to re-enter by the Attorney General or the Secretary of the Department of Homeland Security.

CONCLUSION

9. Based upon forgoing information, I respectfully submit there is probable cause to believe the defendant, Adan MARTINEZ-HERNANDEZ, has violated Title 8, United States Code, Section 1326(a), having improperly re-entered and having been found in the United States subsequent to a prior order of removal, without having previously obtained permission to re-enter from the necessary authorities. Your affiant requests that a criminal complaint be issued pursuant to this violation of federal law.

ATTESTED TO BY THE APPLICANT IN ACCORDANCE WITH THE
REQUIREMENTS OF RULE 4.1 OF THE FEDERAL RULES OF CRIMINAL PROCEDURE



Michael G. Donnell
Deportation Officer
Immigration and Customs Enforcement

I, the Honorable Mitchell J. Katz, United States Magistrate Judge, hereby acknowledge that this affidavit was attested to by the applicant by telephone on January 10, 2025, in accordance with Rule 4.1 of the Federal Rules of Criminal Procedure.

A handwritten signature in black ink, appearing to read "Mitchell J. Katz", written over a horizontal line.

Hon. Mitchell J. Katz
U.S. Magistrate Judge